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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/014,195	11/13/2001	Srinivas Gutta	US010575	3005

24737 7590 05/03/2004

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EXAMINER

YOUNG, JOHN L

ART UNIT PAPER NUMBER

3622

DATE MAILED: 05/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/014,195

Applicant(s)

Gutta et al.

Examiner

John L Young

Art Unit

3622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

JOHN LEONARD YOUNG, ESQ.
PRIMARY EXAMINER

[Signature]
4-28-2004

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

NON-FINAL REJECTION
(PAPER #9)

1. **Claims 1-21 are pending.**

DRAWINGS

2. This application has been filed with drawings that are considered informal; said drawings are acceptable for examination purposes. The review process for drawings that are included with applications on filing has been modified in view of the new requirement to publish applications at eighteen months after the filing date of applications, or any priority date claimed under 35 U.S.C. §§119, 120, 121, or 365.

CLAIM REJECTIONS — 35 U.S.C. §101

3. **Rejections Maintained.**

CLAIM REJECTIONS — 35 U.S.C. §103(a)

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 1-31 are rejected under 35 U.S.C. §103(a) as being obvious in view of Dedrick 5,724,521 (Mar. 3, 1998) (herein referred to as “Dedrick”).

As per claim 1, Dedrick (col. 1, ll. 1-67; col. 2, ll. 1-20; the TITLE; and the ABSTRACT) discloses: *“A method and apparatus for providing electronic advertisements to end users . . . includes an index database, a user profile database, and a consumer scale matching process.”*

Dedrick (col. 1, ll. 33-45) discloses: *“advertisers provide electronic information to end users of the system by way of advertisements in an attempt to sell products and services to the end users.”*

Dedrick (col. 3, ll. 28-67; and col. 4, ll. 1-5) discloses: *“a graphic user interface (GUI), that allows the end user to participate in the system. . . . The GUI contains fields that receive or correspond to inputs entered by the end user. . . . relating to ‘consumer variables.’ Consumer variables refer to demographic, psychographic and other profile information. Demographic information refers to the vital statistics of individuals, such as age, sex, income and marital status. Psychographic information refers to the lifestyle and behavioral characteristics of individuals, such as likes and dislikes, color preferences and personality traits that show consumer behavioral characteristics. Thus the consumer variables refer to information such as marital status, color preferences, favorite sizes and shapes, preferred learning modes, employer, job title, mailing address, phone number, personal and business areas of interests . . . along with various lifestyle information. This information will be referred to as user profile data.*

Dedrick (col. 7, ll. 25-36) discloses: *“Personal profile database 27 is updated with consumer variable information based on the activity monitored by client activity monitor 24.”*

Dedrick (col. 4, ll. 30-65) discloses: *“The . . . advertiser . . . may associate a color preference variable with these option fields, thereby indicating to the client systems . . . to track the color of the option field selected by the end user.”*

Dedrick (col. 7, ll. 65-67; and col. 8, ll. 1-17) discloses: *“The content adapter . . . customizes electronic content to the individual end user based on the user profile data contained in personal profile database 27.”*

Dedrick (col. 11, ll. 7-15; col. 12, ll. 18-50; and col. 17, ll. 55-63) shows: *“subscriber”* and *“not subscriber”* groups.

Dedrick (col. 9, ll. 1-20) discloses: *“an advertisement for a camera received by the end user may have a ‘buy’ option associated with it. If the end user selects the buy option, then session manager 29, transfers the end user’s name, credit card number, and address to the advertiser. Given this information, the advertiser is able to charge the purchase price of the camera to the end user’s credit card and ship the camera to the end user.”*

The Examiner interprets the above disclosures as showing the broad recital of claim 1, which states: “A method for updating a user profile associated with a display media indicating preferences of a user. . . .”

Dedrick (col. 7, ll. 65-67; and col. 8, ll. 1-17) discloses: *"The content adapter . . . customizes electronic content to the individual end user based on the user profile data contained in personal profile database 27."*

Dedrick (col. 1, ll. 66-67; and col. 2, ll. 1-10) discloses: *"The index database provides storage space for the titles of electronic advertisements."*

Dedrick (col. 11, ll. 27-36) discloses: *"The index database . . . contains titles for each electronic information unit."*

Dedrick (col. 15, ll. 32-36) discloses: *"indexes for access to databases external to the system."*

Dedrick (col. 9, ll. 1-20) discloses: *"an advertisement for a camera received by the end user may have a 'buy' option associated with it. If the end user selects the buy option, then session manager 29, transfers the end user's name, credit card number, and address to the advertiser. Given this information, the advertiser is able to charge the purchase price of the camera to the end user's credit card and ship the camera to the end user."*

Dedrick (col. 1, ll. 33-45) shows: *"selecting an item desired for purchase. . . ."*

Dedrick (col. 9, ll. 1-20) discloses: *"an advertisement for a camera received by the end user may have a 'buy' option associated with it. If the end user selects the buy option, then session manager 29, transfers the end user's name, credit card number, and address to the advertiser. Given this information, the advertiser is able to charge the purchase price of the camera to the end user's credit card and ship the camera to the end user."*

The Examiner interprets the above disclosures as showing the broad recital of claim 1 which states: “obtaining a third party selection history indicating items available on said display media that are selected by at least one third party; partitioning said third party selection history into clusters of items; receiving a selection from said user of at least one of said clusters; and updating said user profile with items from said at least one selected cluster.”

Dedrick lacks an explicit recitation of “clusters of items. . . .”

It would have been obvious to a person of ordinary skill in the art at the time of the invention the disclosure of Dedrick (col. 1, ll. 33-45; and col. 9, ll. 1-20) which shows: “*selecting an item desired for purchase. . . .*” and Dedrick (col. 1, ll. 66-67; and col. 2, ll. 1-10) which discloses: “*The index database provides storage space for the titles of electronic advertisements.*” would have been selected in accordance with “clusters of items. . . .” because selection of such features would have provided means for “advertisers [to] provide electronic information to end users . . . in an attempt to sell products and services to the end users . . . [and] targeting only those audiences which are most likely to be influenced by the advertisement. . . .” (See Dedrick (col. 1, ll. 30-60)); furthermore, the disclosure of Dedrick would have rendered the instant invention obvious because the claims at issue of the instant invention suffer from undue breadth.

As per dependent claims 2-9, Dedrick shows the method of claim 1 and subsequent base claims depending from claim 1.

Dedrick (col. 1, ll. 60-67; col. 2, ll. 1-20; col. 3, ll. 1-67; col. 4, ll. 1-67; col. 5, ll. 45-65; col. 6, ll. 1-35; col. 7, ll. 65-67; col. 8, ll. 1-17; col. 9, ll. 1-20; the TITLE; and the ABSTRACT; and the whole document) shows the elements limitations of claims 2-9; notwithstanding the fact that , Dedrick lacks an explicit recitation of the elements and limitations of claims 2-9.

“Official Notice” is taken that both the concepts and the advantages of the elements and limitations of claims 2-9 were well known and expected in the art by one of ordinary skill at the time of the invention because such concepts and advantages would have provided means for “advertisers [to] provide electronic information to end users . . . in an attempt to sell products and services to the end users . . . [and] targeting only those audiences which are most likely to be influenced by the advertisement. . . .” (See Dedrick (col. 1, ll. 30-60)); furthermore, the disclosure of Dedrick would have rendered the instant invention obvious because the claims at issue of the instant invention suffer from undue breadth.

Independent claim 10 is rejected for substantially the same reasons as independent claim 1.

As per dependent claims 11-17, Dedrick shows the method of claim 10 and subsequent base claims depending form claim 10.

Dedrick (col. 1, ll. 60-67; col. 2, ll. 1-20; col. 3, ll. 1-67; col. 4, ll. 1-67; col. 5, ll. 45-65; col. 6, ll. 1-35; col. 7, ll. 65-67; col. 8, ll. 1-17; col. 9, ll. 1-20; the TITLE; and the

ABSTRACT; and the whole document) shows the elements limitations of claims 11-17; notwithstanding the fact that , Dedrick lacks an explicit recitation of the elements and limitations of claims 11-17.

“Official Notice” is taken that both the concepts and the advantages of the elements and limitations of claims 11-17 were well known and expected in the art by one of ordinary skill at the time of the invention because such concepts and advantages would have provided means for “advertisers [to] provide electronic information to end users . . . in an attempt to sell products and services to the end users . . . [and] targeting only those audiences which are most likely to be influenced by the advertisement. . . .” (See Dedrick (col. 1, ll. 30-60)); furthermore, the disclosure of Dedrick would have rendered the instant invention obvious because the claims at issue of the instant invention suffer from undue breadth.

Independent claim 18 is rejected for substantially the same reasons as independent claim 1.

As per independent claim 19, Dedrick (col. 1, ll. 1-67; col. 2, ll. 1-20; the TITLE; and the ABSTRACT) discloses: “*A method and apparatus for providing electronic advertisements to end users . . . includes an index database, a user profile database, and a consumer scale matching process.*”

Dedrick (col. 1, ll. 33-45) discloses: *“advertisers provide electronic information to end users of the system by way of advertisements in an attempt to sell products and services to the end users.”*

The Examiner interprets the above disclosures as showing the broad recital of claim19 which states: “A system for recommending one or more available items to a user. . . .”

Dedrick (col. 3, ll. 28-67; and col. 4, ll. 1-5) discloses: *“a graphic user interface (GUI), that allows the end user to participate in the system. . . . The GUI contains fields that receive or correspond to inputs entered by the end user. . . . relating to ‘consumer variables.’ Consumer variables refer to demographic, psychographic and other profile information. Demographic information refers to the vital statistics of individuals, such as age, sex, income and marital status. Psychographic information refers to the lifestyle and behavioral characteristics of individuals, such as likes and dislikes, color preferences and personality traits that show consumer behavioral characteristics. Thus the consumer variables refer to information such as marital status, color preferences, favorite sizes and shapes, preferred learning modes, employer, job title, mailing address, phone number, personal and business areas of interests . . . along with various lifestyle information. This information will be referred to as user profile data.*

Dedrick (col. 7, ll. 25-36) discloses: *“Personal profile database 27 is updated with consumer variable information based on the activity monitored by client activity monitor 24.”*

Dedrick (col. 4, ll. 30-65) discloses: *"The . . . advertiser . . . may associate a color preference variable with these option fields, thereby indicating to the client systems . . . to track the color of the option field selected by the end user."*

Dedrick (col. 7, ll. 65-67; and col. 8, ll. 1-17) discloses: *"The content adapter . . . customizes electronic content to the individual end user based on the user profile data contained in personal profile database 27."*

Dedrick (col. 1, ll. 66-67; and col. 2, ll. 1-10) discloses: *"The index database provides storage space for the titles of electronic advertisements."*

The Examiner interprets the above disclosures as showing the broad recital of claim19 which states: "a memory for storing computer readable code. . . ."

Dedrick (col. 9, ll. 1-20) discloses: *"an advertisement for a camera received by the end user may have a 'buy' option associated with it. If the end user selects the buy option, then session manager 29, transfers the end user's name, credit card number, and address to the advertiser. Given this information, the advertiser is able to charge the purchase price of the camera to the end user's credit card and ship the camera to the end user."*

Dedrick (col. 11, ll. 27-36) discloses: *"The index database . . . contains titles for each electronic information unit."*

Dedrick (col. 1, ll. 33-45) shows: *"selecting an item desired for purchase. . . ."*

Dedrick (col. 15, ll. 32-36) discloses: *"indexes for access to databases external to the system."*

The Examiner interprets the above disclosures as showing the broad recital of claim 19 which states: “provide a clustered third party selection history to a user, said selection history indicating items that are selected by at least one third party, each of said clusters including similar items; receive a selection from said user of at least one of said clusters. . . .”

Dedrick lacks an explicit recitation of “provide a clustered third party selection history to a user. . . .” It would have been obvious to a person of ordinary skill in the art at the time of the invention the disclosure of Dedrick (col. 1, ll. 33-45; and col. 9, ll. 1-20) which shows: “*selecting an item desired for purchase. . . .*” and Dedrick (col. 1, ll. 66-67; and col. 2, ll. 1-10) which discloses: “*The index database provides storage space for the titles of electronic advertisements.*” would have been selected in accordance with ““provide a clustered third party selection history to a user. . . .” because selection of such features would have provided means for “advertisers [to] provide electronic information to end users . . . in an attempt to sell products and services to the end users . . . [and] targeting only those audiences which are most likely to be influenced by the advertisement. . . .” (See Dedrick (col. 1, ll. 30-60)); furthermore, the disclosure of Dedrick would have rendered the instant invention obvious because the claims at issue of the instant invention suffer from undue breadth.

Independent claim 20 is rejected for substantially the same reasons as independent claim 1.

Independent claim 21 is rejected for substantially the same reasons as independent claim 19.

RESPONSE TO ARGUMENTS

5. Applicant's arguments (Amendment A, filed 02/24/2004, paper #8) has been fully considered but is not persuasive for the following reasons:

As per dependent claims 2-9 and 11-17, in response to Applicant's argument (Amendment A; paper#8) fails to seasonably challenge the Official Notice evidence presented in the obviousness rejections of the prior Office action; it is well settled in the law that "If Applicant does not seasonably traverse the well known statement during examination, then the object of the well known statement is taken to be admitted prior art. *In re Chevenard*, 139 F.2d 71, 60 USPQ 239 (CCPA 1943). A seasonable challenge constitutes a demand for evidence made as soon as practicable during prosecution. Thus, Applicant is charged with rebutting the well known statement in the next reply after the Office action in which the well known statement was made." (See MPEP 2144.03).

In this case, Applicant's response is silent as to a demand for references concerning the Officially Noticed well known statement evidence presented in the prior Office Action; therefore, said Official Notice evidence is deemed admitted, and no further references are required in support of said Official Notice evidence.

Furthermore, Applicant's arguments are moot based on new grounds of rejection herein presented by the Examiner.

CONCLUSION

6. Any response to this action should be mailed to:

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Any response to this action may be sent via facsimile to either:

(703)305-7687 (for formal communications EXPEDITED PROCEDURE) or

(703) 305-7687 (for formal communications marked AFTER-FINAL) or

(703) 746-7240 (for informal communications marked PROPOSED or DRAFT).

Hand delivered responses may be brought to:

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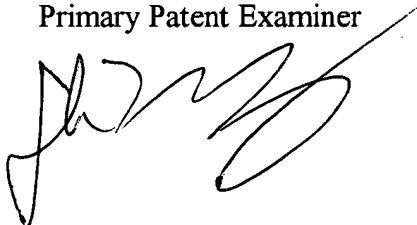
Any inquiry concerning this communication or earlier communications from the examiner should be directed to John L. Young who may be reached via telephone at (703) 305-3801. The examiner can normally be reached Monday through Friday between 8:30 A.M. and 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber, may be reached at (703) 305-8469.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.

John L. Young

Primary Patent Examiner

A handwritten signature in black ink, appearing to read 'JL Young', written over the printed name and title.

JOHN LEONARD YOUNG, ESQ.
PRIMARY EXAMINER

April 27, 2004